

In The News

T-Mobile to AT&T's Aio Wireless: Give me back my magenta!

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Can a company own a color? Apparently so, according to a federal judge who has sided with T-Mobile in a trademark lawsuit, saying that Aio Wireless, a subsidiary of Dallas-based AT&T Inc., isn't allowed to use colors resembling T-Mobile's promotional "magenta" shade.

The court in a Feb. 10 ruling ordered AT&T to stop using Pantone 676C, a color Aio describes as "plum," because of fears that it might cause consumers to confuse the two brands.

T-Mobile issued a statement claiming victory in the quarrel over the controversial color, while an Aio spokeswoman said the company disagrees with the court's ruling but had already decided not to use the color in advertising and store designs.

From a dad's perspective, it reminds me of when my kids would squabble over crayons.

T-Mobile: Aio, stop using my magenta! Waaaa!

Aio: It's not magenta, it's plum.

T-Mobile: Dad, tell Aio to stop using my magenta.

Judge: Aio, stop using magenta. T-Mobile had it first.

T-Mobile: Ha! I told you so.

Aio: Fine. I don't want it anyway. But it's still plum.

Seeking deeper legal analysis, I turned to intellectual property attorney Jamil N. Alibhai.

"When a certain color is used in a certain way that indicates the source of a product, it can be a protectable trademark," Alibhai told me.

"Each of these telecom companies uses certain colors on a regular basis," Alibhai said. "AT&T often uses orange. Sprint uses yellow. T-Mobile uses magenta. The court was saying that when a competitor tries to use a similar color as somebody else in the same industry for marketing its stores, it can infringe the other one's trademark."

So when it comes to color, how close is too close?

"The legal question is, is there a likelihood of confusion for the consumer?" Alibhai said.

This isn't the first time a question of color has been litigated, Alibhai added.

A U.S. federal appeals court ruled in September 2012 that famous French luxury shoe designer Christian Louboutin was entitled to trademark protection of its signature red-soled stilettos, with certain limitations.

In that case, the court ruled that Louboutin can protect its brand against red-soled shoes made by Yves Saint Laurent S.A.S., another luxury designer, but it instructed the U.S. Patent and Trademark office to limit Louboutin's trademark to uses in which the red bottom contrasts with the color of the rest of the shoe.

That means that if Yves Saint Laurent used a red sole on a red shoe, it would not infringe on Louboutin's trademark. The patent office had granted Louboutin protection in 2008.

T-Mobile, like Louboutin, had trademarked its magenta color, Alibhai said.

To read the full article, [click here](#).

Primary Contacts



Jamil Alibhai

Dallas
214.880.1061
jalibhai@munsch.com

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